### Lesson 5: Credible Fear



## Lesson Objectives

#### After completing this lesson, you will be able to:

- Demonstrate the steps that a CBP officer must take when he or she encounters an individual claiming asylum or credible fear.
- Demonstrate how to process individuals subject to Expedited Removal who claim asylum or credible fear.
- Demonstrate how to process VWP applicants who claim asylum or credible fear.



# Refugees





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## Who Are Refugees?

#### Some examples of refugees are:

- Individuals fleeing war
- Women fleeing discrimination or persecution
- Religious believers



## Scenario: Displaced Woman





### Scenario: Fleeing War-Related Conditions





## Scenario: Religious Persecution





## **Refugees: The Facts**

- There were 9.6 million refugees worldwide in 2004.
- More than 75 percent of displaced people are women and children.
- In 2003, approximately 12,800 unaccompanied and separated children applied for asylum.
- Today, as many as 300,000 children under the age of 18 serve in government forces or armed rebel groups.



### What Laws and Treaties Protect Refugees?





## What Rights Do Refugees Have?

- Safe asylum
- Treatment equivalent to that accorded to any other foreigner who is a legal resident
- Freedom of thought and movement, from torture, and from degrading treatment
- Access to medical care, education, and the right to work



## **Asylees**

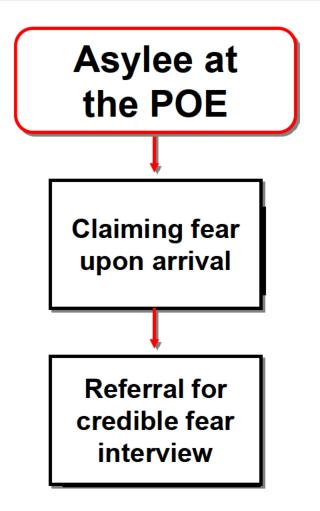
#### An asylee is an alien who is both:

- In the U.S. or at a POE
- Found to be unable or unwilling to return to his or her country of nationality, or to seek the protection of that country because of persecution or a wellfounded fear of persecution.



### The Asylum Process

**Asylee in the United States Affirmative Asylum Application Asylee obtains** application through CIS





### 1998 IRFA

When an individual seeks asylum or expresses credible fear, it is illegal to:

- Improperly encourage the alien to withdraw his or her application for admission.
- Fail to refer for an interview by an Asylum Officer for a determination of whether he or she has a credible fear of persecution.
- Incorrectly remove such an alien to a country where he or she may be persecuted.
- Detain such an alien improperly or in inappropriate conditions.



### The Role of the CBP Officer

- Do NOT decide whether asylum claims have merit.
- Refer aliens who:
  - Seek asylum.
  - State that they have a fear.
  - Demonstrate any indication that they might fear persecution, torture, or return.
- Explain the process to the individual.



### Credible Fear

Aliens may express a fear of persecution or return by responding to protection-related questioning:

- Affirmatively
- Vaguely or indirectly
- Non-verbally



## Recognizing Credible Fear

- Claims of fear are not always instantly recognizable.
- Refer any suspected fear claim, even if the harm feared appears to be:
  - Purely personal
  - Purely criminal
  - Punishment for a crime the alien may have committed



### Non-Verbal Fear

#### Non-verbal fear cues may include:

- Crying
- Hysteria
- Trembling
- Incoherent or difficult speech patterns
- Signs of physical trauma



### Scenario: Credible Fear





# Safe Third Country Agreement

#### The Safe Third Country Agreement:

- Helps determine which country is responsible for consideration of asylum or torture claims.
- Applies only to Northern land border POEs.
- States that asylum-seekers arriving from Canada must be returned to Canada, unless certain exceptions apply.



### Fear and Expedited Removal

- Process for Expedited Removal in accordance with existing guidelines and refer for a credible fear interview.
- Provide Form M-444, Information about Credible Fear Interview, and Information about Threshold Screening Interview.
- Fax Forms I-860, I-867A & B, M-444, legal services provider list, and Information About Threshold Screening Interview to the Asylum Office having jurisdiction over the case.



## **Expedited Removal: I-160A**

- Prepare Form I-160A, Notice of Refusal of Admission/Parole into the United States.
- Check the box "Refused admission and paroled into the U.S."
- (b)(7)(E)
- Use only on the Northern Border.



### **Expedited Removal: Documents**

- Seize any fraudulent documents.
- Prepare a travel packet.
- Complete a Single Journey Letter on CBP letterhead.
- Place the packet in the A-File to be used if/when the alien is returned to Canada.



### **Expedited Removal: A-Files**

- If an A-File exists, you should create a temporary work folder.
- If a file does not exist, you should follow local procedures for creating an A-File and track the work folder in the (b)(7)(E)

  System (b)(7)(E)



### Fear and Unaccompanied Minors

Aliens under the age of 18 who arrive without a guardian:

- Are typically set up for Section 240 hearing if they claim fear. They can claim asylum with Immigration Judge.
- Are referred for credible fear if they qualify under Exceptions for Expedited Removal.



## Withdrawal of Asylum Claim

An asylum-seeker may withdraw the asylum claim and application for admission if he or she expresses concerns about being:

- Placed in Expedited Removal.
- Detained for a credible fear interview.



### Fear and the Visa Waiver Program

- VWP applicants who claim fear must be processed differently. They must be processed for refusal, and referred to the Immigration Judge.
- This does not mean that they are eligible for a fullscale §240 hearing.



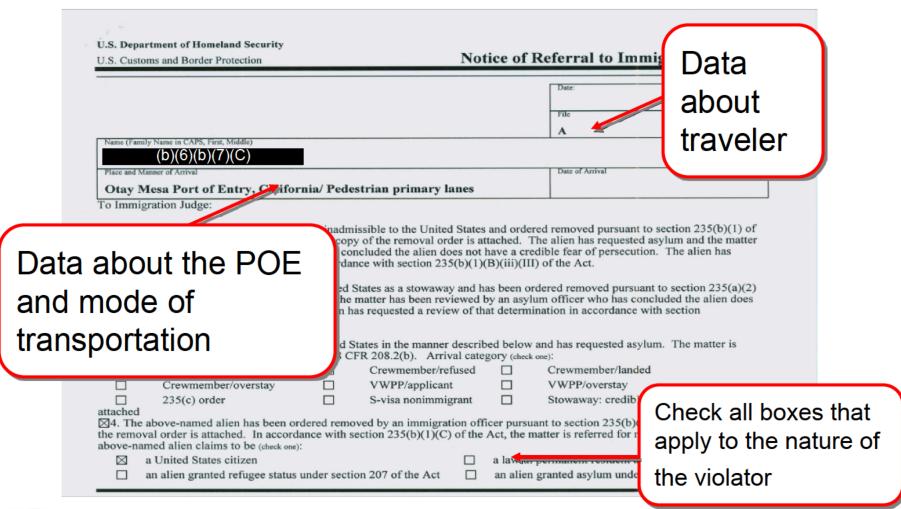
## VWP Violators: Asylum

In a case where an alien wishes to apply for asylum, you should:

- Complete Form I-863.
- Check Box #3 and the appropriate category within that paragraph.
- Refer the alien to the Immigration Court for the asylum hearing in accordance with IFM Chapter 15.7(g)(4), VWP Asylum Requests and Procedures.



### **Form I-863**





### **Discussion Question**

What steps must be taken in order for a VWP violator to apply for asylum in the United States?



## **Lesson Summary**

#### You should now be able to:

- Demonstrate the steps that a CBP officer must take when he or she encounters an individual claiming asylum or credible fear.
- Demonstrate how to process individuals subject to Expedited Removal who claim asylum or credible fear.
- Demonstrate how to process VWP applicants who claim asylum or credible fear.



# U.S. Customs and Border Protection